

ROBBIN CROSKEY, )  
 )  
 Plaintiff, )  
 )  
 v. ) No. 4:14-CV-1797 CAS  
 )  
 RICHARD G. CALLAHAN, et al., )  
 )  
 Defendants. )

This matter is before the Court on plaintiff's motion for leave to proceed in forma pauperis. The motion will be granted. Additionally, having reviewed the case, the Court will dismiss it under 28 U.S.C. § 1915(e).

Under 28 U.S.C. § 1915(e)(2)(B), the Court must dismiss a complaint filed in forma pauperis if the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief.

Plaintiff brings this Bivens action against Richard Callahan, United States Attorney for the Eastern District of Missouri; Kenneth Tihen, Assistant United States Attorney; and Tiffany G. Becker, Assistant United States Attorney. Plaintiff was indicted in this District on several counts of drug-related crimes. See United States v. Croskey, 4:11-CR-196 JCH (E.D. Mo.). After two mistrials, the government moved to dismiss the superseding indictment without prejudice. The Court granted the motion.

Plaintiff alleges that defendants prosecuted her case without the requisite grand jury proceedings. Plaintiff further alleges that defendants “deliberately withheld evidence, wrongly

procured statements, and fabricated false reports and other evidence, thereby misleading, misdirecting, and perpetrating fraud upon the court.” Plaintiff says she suffered mental and physical distress as a result of the criminal process.

### **Discussion**

Prosecutors are absolutely immune from civil rights actions. Imbler v. Pachtman, 424 U.S. 409, 427 (1976). There is no fraud exception to prosecutorial immunity. Id. at 427-28; In re NYSE Specialists Securities Litig., 503 F.3d 89, 101 (2d Cir. 2007). As a result, this action must be dismissed under 28 U.S.C. § 1915(e).

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff’s motion to proceed in forma pauperis is **GRANTED**. [Doc. 2]

**IT IS FURTHER ORDERED** that plaintiff’s motion to appoint counsel is **DENIED as moot**. [Doc. 4]

**IT IS FURTHER ORDERED** that this action is **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B) because defendants are absolutely immune from suit.

A separate Order of Dismissal will be filed forthwith.

  
**CHARLES A. SHAW**  
**UNITED STATES DISTRICT JUDGE**

Dated this 6th day of November, 2014.